

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
Midland-Odessa DIVISION

FILED

MAR 22 2010

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY _____ DEPUTY CLERK

Jeffrey A. Neely
(Name of plaintiff or plaintiffs)

v.

PSEG Texas, LP and

PSEG Fossil, LLC

(Name of defendant or defendants)

Civil Action Number MO-10-CV 030

(Case Number to be supplied
by the Intake Clerk)

COMPLAINT

1. This action is brought by Jeffrey A. Neely, Plaintiff, pursuant to the following selected jurisdiction:

(Please select the applicable jurisdiction)

- ☒ Title VII of the Civil Rights Act of 1964 (42 USC §§ 2000e et seq.) Employment Discrimination on the basis of race, color, sex (gender, pregnancy and sexual harassment), religion or national origin.
- ☐ The Age Discrimination in Employment Act (29 USC §§ 621 et seq.) (ADEA).
- ☒ The Americans With Disabilities Act (42 USC §§ 12102 et seq.) (ADA).
- ☐ The Equal Pay Act (29 USC § 206(d)) (EPA).
- ☐ The Rehabilitation Act of 1973 (29 USC § 791 et seq.) (Applicable to federal employees only).

2. Defendant PSEG (Defendant's name) lives at, or its business is located at 2200 E. I-20 Service Rd. South (street address), Odessa (city), TX (state), 79766 (zip).

- 3a. Plaintiff sought employment from the defendant or was employed by the defendant at 2200 E. I-20 Service Rd. South (street address), Odessa (city), TX (state), 79766 (zip).

- 3b. At all relevant times of claim of discrimination, Defendant employed unknown (#) employees. If defendant is a union, at all relevant times of claim of discrimination, Defendant had _____ (#) members.

4. Defendant discriminated against plaintiff in the manner indicated in paragraph 8 of this complaint on or about _____ (month) _____ (day) _____ (year). If incidents of discrimination occurred more than one day, please indicate the beginning and ending dates of such acts: October 2008 to May 18, 2009
5. Plaintiff filed charges against the defendant with the Equal Employment Opportunity Commission (E.E.O.C.) charging defendant with the acts of discrimination indicated in paragraph 7 of this complaint on or about June (month) 6 (day) 2009 (year). (Not applicable to federal civil service employees).
- 6a. The E.E.O.C. issued a **Notice of Right to Sue** which was received by plaintiff on December (month) 23 (day) 2009 (year). (Not applicable to ADEA and EPA claims or federal civil service employees).

VERY IMPORTANT NOTE:

PLEASE ATTACH A COPY OF YOUR NOTICE OF RIGHT TO SUE AND THE ENVELOPE IN WHICH IT WAS RECEIVED TO THIS COMPLAINT.

- 6b. Please indicate below if the E.E.O.C issued a **Determination** in your case:

☒ Yes
☐ No

VERY IMPORTANT NOTE:

IF YOU CHECKED "YES", PLEASE ATTACH A COPY OF THE E.E.O.C.'S DETERMINATION TO THIS COMPLAINT

7. Because of plaintiff's:

(Please select the applicable allegation(s))

- ☒ Race (If applicable, state race) White
- ☐ Color (If applicable, state color) _____
- ☐ Sex (gender, pregnancy or sexual harassment) (If applicable, state sex and claim) _____
- ☐ Religion (If applicable, state religion) _____
- ☐ National Origin (If applicable, state national origin) _____
- ☐ Age (If applicable, state date of birth) _____
- ☒ Disability (If applicable, state disability) Major Depressive Disorder, Generalized Anxiety Disorder

- ☒ Prior complaint of discrimination or opposition to acts of discrimination.
(Retaliation) (If applicable, explain events of retaliation) _____

The defendant: (please select all that apply)

- ☐ failed to employ plaintiff.
- ☒ terminated plaintiff's employment.
- ☐ failed to promote plaintiff.
- ☒ harassed plaintiff.
- ☐ other (specify) _____

- 8a. State **specifically** the circumstances under which defendant, its agent, or employees discriminated against plaintiff **PERSONALLY**:

VERY IMPORTANT NOTE: INCLUDE SPECIFIC DATES, SPECIFIC EVENTS,
AND ANY SPECIFIC COMMENTS MADE BY
DEFENDANT PERTAINING TO THE
DISCRIMINATION CLAIM ALLEGED ABOVE.

See Attached

- 8b. List any **witnesses** who would testify for plaintiff to support plaintiff's allegations and the substance of their testimony:

See Attached

- 8c. List any **documentation** that would support plaintiff's allegations and explain what the documents will prove:

See Attached

9. The above acts or omissions set forth in paragraphs 7 and 8 are:

- ☐ still being committed by defendant.
☒ no longer being committed by defendant.

10. Plaintiff should attach to this complaint a copy of the charge filed with the Equal Employment Opportunity Commission. This charge is submitted as a brief statement of the facts supporting this complaint.

WHEREFORE, plaintiff prays that the Court grant the following relief to the plaintiff:

- ☐ Defendant be directed to employ plaintiff.
☐ Defendant be directed to re-employ plaintiff.
☐ Defendant be directed to promote plaintiff.


☒ Defendant be directed to pay Plaintiff back pay in an amount to be determined at trial, pay Plaintiff front pay in an amount to be determined at trial, pay Plaintiff compensatory and punitive damages in an amount to be determined at trial, reimburse Plaintiff for all costs of court,

_____, and that the Court grant such other relief as may be appropriate, including injunctive orders, damages, costs and attorney's fees.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

3-22-10

Date


 Signature of Plaintiff

3811 S Country Rd 1198
 Address of Plaintiff

Milwaukee WI 53006
 City State Zip Code

432-352-6526
 Telephone Number(s)

8a. State **specifically** the circumstances under which defendant, its agent, or employees discriminated against plaintiff **PERSONALLY**:

On or about October of 2008, Roy Sanchez (Hispanic), plant manager, made offensive and derogatory comments about White people in the presence of myself and other PSEG employees. Roy Sanchez was in the control room having a conversation with everyone present where he proclaimed that while he was working for the Huntsman plant he was able to engineer a major turnaround in the hiring of Hispanic employees. Specifically, he claimed that when he began working there he was the only Hispanic employee in his position and that by the time he left, thanks to his own doing, he had hired all Hispanics and replaced the majority of the workers there. I can not speak to the truth of such a proclamation, but I can certainly speak to the earnestness in which he said it. I can also speak to the fact that while in a position to hire employees at the PSEG plant in Odessa, the vast majority hired under his approval are Hispanic. To me, this indicates a racial preference and demonstrates a potential reason for his actions, or lack thereof, towards myself throughout my final months of employment at the plant.

I suffer from the following mental impairment: I have been diagnosed with Major Depressive Disorder (Severe Without Psychosis) and Generalized Anxiety Disorder; additionally, I exhibit the symptoms of Obsessive Compulsive Disorder and Post Traumatic Stress Disorder.

As far back as spring of 2008, I was having severe difficulties adjusting to the new corporate environment at PSEG and expressed my concerns to management. One particular example that stands out is the night that Roy Sanchez handed out letters to each person on shift in his office. The letters stated our pay raise and bonus for the year. During that conversation in Roy's office, I broke down into tears and told him I was having troubles and one of the reasons was that with the constant changes going on at the plant I was not sure where I stood anymore and that fact was presenting serious problems for me. Roy told me point blank that I have no need to be concerned: I am an excellent employee and have nothing to fear as long as he works at the plant. Lloyd Hughes mentioned the same mantra many times as late as April of 2009.

Despite their assurances, I remained deeply troubled and my difficulties adjusting to the corporate structure ensued. My issues (clear symptoms of anxiety and depression) were well known to plant management and my coworkers. By means of everyday conversation and interaction, my frustrations and emotional/mental issues were common knowledge at the plant.

One of many sources of frustration was a "no coffee cup rule" implemented by corporate management. The "no coffee cup rule" (from here on out NCCR) came about during the summer of 2008 and I, like the rest of my co-workers, was deeply troubled by it. It is a safety concern because coffee and other drinks are a valuable tool in staying alert and awake during long shift hours at the control panel desk, particularly at night.

I first brought this up as a safety concern almost as soon as the NCCR came into effect. When I brought this up to Lloyd Hughes, the plant's operations manager, he confirmed that he understood the safety concerns and acknowledged that during his entire five years as an operator at the plant before promotion to operations manager, not a shift went by where he did not have a coffee cup full of coffee, a water bottle full of water, and another cup used as a spittoon at the desk with him. He said that in light of that fact and the understanding of the need for a beverage, there were plans in motion for the plant to provide spill-proof cups for the operators to use while on shift. These plans never materialized.

From the summer of 2008 until May 1, 2009 this was an ongoing statement from Lloyd. Comments such as, "we are working to get everyone cups," and, "the plant has not had a safety incident in two years and we are going to use our award money to get those cups so everyone can have a drink," were repeated regularly.

In the fall of 2008, Dominic Dibari, Director PSEG Fossil, came from the New Jersey corporate headquarters to visit the plant and make a presentation to the plant's workers. In the days leading up to that meeting I began to have serious worries about meeting him because I knew that if I were to be asked about things at the plant, I would not be the least bit dishonest and I would not be able to avoid bringing up the NCCR. I spoke to my shift supervisor, Pedro Hernandez, about my concerns and told him that to avoid trouble I was wanting to take the day off while Dominic was in town. Pedro is also my friend and chastised me greatly for my train of thought while talking me into not using a sick day. Lloyd Hughes was aware of my concerns and mentioned to me during a conversation in his office in February of 2008, on his own accord, that he knew of that situation in the fall.

Over time, the prevailing attitude of the operators at the plant as extolled by Lloyd Hughes and many others became, "just play the game while the boss is in town and as soon as he is gone we can get back to business as usual. That's how it always works. You should know that by now." This attitude was not specific to the NCCR and included many other things such as asking permission to enter the control room, carrying the "2-minute drill" card, etcetera.

I disagreed with that posture from the very beginning. It is dishonest and strikes to the very core of what it is we do for a living. The thought goes, "if you'll lie about the little things, what else would you lie about?" And in industrial machinery operation, there is simply no room for such an attitude.

Integrity, honesty and the like is something mentioned time and time again throughout all of PSEG's procedures and guidances. It is the keystone to every single industrial machinery operation in the world and there is no room for shortcuts when it comes to such things.

The stress at the job was taking a toll on every aspect of my life. I had always been proud of the fact that I kept work at work and home at home but by this point, the two had begun comingling. I always managed to be professional and upbeat at work and always put the job first,

but my home life was deteriorating noticeably. My fiancé, family, and friends will all verify this fact.

For months, due to a staffing shortage at the plant and operational demand, I had been working huge amounts of overtime. This large amount of hours prevented me from keeping up the "Life" part of the "Work/Life" balance. In the week leading up to February 4th, I had been at the plant doing overtime to support an outage and performed commendably. All the managers at the plant commented to that fact.

To keep up the "Life" part of that balance, I like to perform stand-up comedy and volunteer at the local theater where I also perform. Work obligations had kept me away from such pursuits and the 4th was the six month anniversary since my last road trip to perform. Needless to say, I needed the break and was very much looking forward to it. Five minutes before my alarm was to go off and I was to hit the road, my phone rang and I was asked if I would come in and cover a shift for Jaime Padilla who said he had something come up. I said I would (reluctantly) and canceled my plans for the day.

After turnover, I spent the next 30 minutes or so doing the routine stuff required of the job which included things such as going through the previous logs and machinery status and so on. The plant was shut down and not scheduled to run for the day so my duties for the shift consisted of manning the control room desk and answering the phone. Also, in the event that ERCOT requested a plant startup, my job was to start the plant and place it online with the electrical grid. After going through the morning routine, I got out my breakfast (a McDonalds burrito and a drink) and opened some news articles to read while on shift. It was then that I noticed on my right a man standing there who had snuck in quietly.

I said to him, "Good morning, sir. What can I do for ya?" and turned my complete attention to him. I had only ever seen him the one time before, months ago, so I didn't immediately recognize him.

He said, "Hi. I'm Dominic DiBari...Dom," and placed a water bottle on the control room desk. Then he took a seat and wanted to talk. Several of my fellow operators and maintenance technicians were also present in the room.

He presented the question, "what do you think of PSEG and how we are doing things now that we are taking over the plant?" to which I replied, "Sir, if it's all just the same to you, and please don't take offense at this, but if it's all just the same to you, I am really uncomfortable having a conversation such as this and would rather not."

"Why?"

"Simply put, sir, because every time I have a conversation with higher management I end up in trouble - especially if they don't know me because I can come off a bit harsh on occasion even

though I never mean to so, if it's all just the same, I am really not comfortable having this conversation and would really rather not."

"You must be kidding? You can't get in trouble just for having a conversation."

"Trust me, jack, I'm probably already in trouble just for talking to you this much so again, if you don't mind, I'm very uncomfortable having this conversation and would really rather not have it. I'm very good at what I do and no one will deny that so please just leave me alone to do my job. I don't want any problems."

This conversation went on for at least fifteen minutes exactly as above before I finally gave in and said, "Are you sure you want to have this conversation?"

"Yes."

"And you're sure I'm not gonna get into any trouble?"

"Absolutely."

"Positive?"

"Yes."

So, after stating many times over that I am not at all comfortable and asking to be left alone, I asked three times in a row if he was sure that he wanted to have that conversation and that he was certain I would not get into any trouble for anything discussed. He agreed. Throughout the rest of the conversation I continued to state many more times that I was uncomfortable and not happy talking and he assured me many more times that I would absolutely not get into any trouble. He told me that my feedback was excellent and that he liked me quite a good deal and could figure out easily that I am a great guy.

During the course of that conversation, I measured my answer very carefully because I did not trust him. The first thing I brought up was two examples of things that PSEG was asking of us that we at the plant could complain a little less about and try a little harder at. Specifically, the amount of cleaning being brought on and the flushing of the closed cooling water heat exchangers. Then I brought up some things I felt PSEG could do better.

The first thing I mentioned was the NCCR. I told him that there was simply no fair, understandable basis for that rule whatsoever and that anything gained by not having drinks allowed on the desk is quickly negated by the unforeseen consequences of such a silly rule. Then I said, "The biggest problem with that rule is that people are adopting the attitude of "just play the game when the boss is here" and that is not at all healthy. As soon as you go back to Jersey, everyone here is going to just go back to ignoring the rule and will openly make fun of it. In fact,

not even you seem to have much respect for that rule,” and I pointed to his own water bottle sitting on the forbidden real estate.

He said, “Well, you got me on that one.”

“No, sir. You see, it’s not about “getting” anyone. It’s about the deterioration of the attitude at the plant. It’s about the fact that we operate half a billion dollars of machinery and should be treated like humans...grown adults. It’s about the fact that having a drink helps us to stay awake and concentrated on our jobs. And it’s about the fact that it is absolutely impossible for something bad to happen if some coffee is spilt. Either way, this is a big issue out here at the plant and it’s just something I think PSEG could do better is all.”

“Excellent feedback...excellent. What is something else?”

“Jeez I’m going to be in so much trouble.”

“No no, you aren’t going to be in any trouble. Don’t worry, it’s just a conversation...”

The next thing I mentioned was that PSEG was wanting to put special door locks on the control room and implement a bunch of other silly things at the plant related to that. I told him that I understand where it is those rules come from as I am prior nuclear navy myself, but that at our plant there was no such need for those type of things. “At the plant here,” I told him, “everyone is very professional and treats each other with respect. Adding the need to “request permission to enter” simply makes a block that no one cares about and again, once the bosses go back to Jersey, everyone I work with goes back to business as usual and makes fun of the rules.” Then I said, “In fact, did you request permission to enter when you came in here today?”

He said, “Well, you got me on that one too.” (It is worthy to note that he made no attempt to leave or gain permission to stay.)

“Again, sir, it’s not about “getting” anybody. It’s about the fact that those type of things, while maybe necessary someplace else, aren’t at all necessary here and are more of a hindrance than anything else. I mean, someone even came up with the brilliant idea of painting some stupid red lines on the floor to demark the line between the control room and the horseshoe. As if you can’t hear over a dumb ass red line painted on the floor? All I’m sayin’ is that here we are all very professional and respect what each other does and things like that that PSEG is asking of us well, maybe they could do a bit better at.”

Then the conversation veered to Dominic saying, “you should be doing something for the company at all times so if you find yourself with some free bandwidth today, give Lloyd a call and say, “hey, Lloyd, I’ve got some free bandwidth today, is there anything I can do for the company?””

I told him I would probably have to wait until another day because I was sure to be in trouble for talking to him and he again assured me there would be no trouble. Then he left. It was later that I found out that the NCCR and the "stupid red lines" I mentioned were both his personal ideas.

There was more to it, but that is the basic bones of what was discussed.

Not five minutes after Dominic walked out, Lloyd walked into the control room. Mike Willadsen can verify the time between Dominic leaving and Lloyd entering. I turned to him and said, "Hey, Lloyd, just so you know your movies are in..."

"Yeah, I already know...JESUS CHRIST, Jeff. Did Dominic see that coffee cup?"

"Yeah he did and that's the other thing I need to talk to you about because I honestly did everything I could to avoid..."

"You fucking piece of shit!! How many times do I have to fucking tell you..." And out the door he went., cussing the entire way out the door.

So all day I was incredibly stressed and unhappy. The longer the day went on, the worse I got. Late in the afternoon, Mike Gallaher, the plant safety manager, came into the control room and we discussed the mornings events. He can attest that I was deeply distressed and not at all in a pleasant mood. He and I talked for about twenty minutes or so.

Then, about 4:30 or so, Dominic came back to the control room. He walked into the back door and in a very loud and childish manner yelled, "REQUEST PERMISSION TO ENTER THE CONTROL ROOM AREA."

I had no choice but to stay at that desk. Had I walked away, I would have been fired for leaving the desk unattended. He sat back down and began to talk. The first thing he said was that he was a man of his word and was following up with me to see if I had called Lloyd and offered him some of my "free bandwidth" so I could do something good for the company.

I do cuss a lot when I talk which is one of the reasons I tried so hard not to talk to him in the morning. I can't help that I do it most of the time because most of the time I am unaware of it. In the morning, I was very careful to not cuss at all until I asked him three times if he was sure he wanted to have a conversation with me. And even then I was as careful as possible. The afternoon, little different story.

My response to his question was, "Really, what the fuck is wrong with you? I told you I was going to get in trouble just for talking to you and not five minutes after you walked out of here Lloyd walks in yelling and cussing, exactly like I said was going to happen. So all day I'm on the precipice of the unemployment line and you're gonna ask me if I called him up to offer some "free bandwidth"? Really, what the fuck is wrong with you?" or something real close to that.

He then said, "Oh that? That's between you and Lloyd. We're just talking here."

Then he told me that he had asked around about me all day and that everyone said the same thing about me - that I am a very hard working, smart, reliable, dedicated and caring employee who would do anything for you. "But we need to work on your professionalism."

"Excuse me?"

"You're very unprofessional."

I was beginning to bubble and boil over at this point but I kept myself in check and did my best to barely let it show. Meanwhile, I nearly ripped the arms off the chair I was sitting in. I do not hide emotion well and I know that I could clearly be seen as being very upset. There could have been no doubt in his or anyone else's mind that I was very near the tipping point. By the time the rest of this was over, I was in such a complete rage of outrage that I was flushing over and had blue spots in my vision. I was also getting a bit dizzy. What he did to me there that I am about to describe was way past over the line for a million reasons least of all, no means no. I asked and told him very clearly to leave me alone and he kept at it. The return to the control room was meant solely to harass me and nothing else.

"Look here, boss. You can say anything you please about me. You don't like the language I use, I apologize. But remember, I did everything I could to keep that side of myself from you today. Don't you ever again question my professionalism. You can ask, and in fact I demand it, that you go around and talk to every single person I work with or ever have worked with and every single last one of them will tell you that at ALL times, when I am at the job, I am nothing BUT professional."

This continued. He questioned my professionalism and my integrity all the while continuing to push my buttons. Then he began to question my character. I honestly don't remember most of the conversation because I was way beyond agitated. I just clearly remember the beginning of it, that he questioned my best and most valuable attributes and basically called me a terrible litany of names, and then shifted the conversation. I calmed down a bit and clearly remember the end of it though.

He said, "do you have any questions for me?"

"Yes. Does this mean the coffee cup issue is resolved?"

"What?"

"Tomorrow I am going to be stuck at this desk all day again. While I am sitting here can I enjoy a delicious cup of coffee to help me stay awake during the day?"

"Well, it's Lloyd's control room and that's his policy, you are going to have to take that up with him." This statement was a lie. I already knew the rule came from above and found out later that it was his personal idea.

"I already did, sir, many times, and he told me that this is not his doing and that it comes from Corporate. You are the single, sole enforcer of that silly rule and you can change it right now...today. So, are you going to step up and do the right thing and change the coffee cup rule?"

"Well, we can talk about...and...um...there's some room for debate and um..." Then he leaned in close to me and said, "you DO understand the chain of command DON'T YOU, Jeff?" I said, "I got ya, brother," and turned away. He got up and walked out and that was the last time I ever saw him in person. That was clearly a threat and I perceived it as such.

Turnover to end the shift was shortly after he left the control room. I got out of the plant as quick as possible. On the way home I began barfing and had to stop several times and do so on the side of the road. I was barfing all night as well. I became afraid to eat because every time I did eat, I began barfing very shortly after or even during the meal. That lasted several days. I also couldn't sleep. Between the night of February 5th and the day I eventually landed in the hospital in May, I got maybe a total of ten nights sleep. The weight loss became extreme. I first lost about forty pounds and then began to regain some of it. Before it was finished, I dropped close to fifty pounds from where I began. The barfing also came and went many times during the time leading up to hospitalization and the enamel is rotting off my teeth. This is the price I paid for swallowing that emotion that afternoon.

From that day on, my life began to spiral out of control. The best way I have been able to describe it is that I felt like, and went through, the exact same set of emotions a rape victim feels. First there is helplessness, then rage, then vengeance and finally retribution. It took me an incredible amount of effort over several weeks to go through those emotions.

I had to work the next day at the control room desk and did so without incident. The next day, I was working as the outside operator and Lloyd came out to the plant at about 9:00 a.m.. About 9:15 I went to his office to apologize for any trouble I might have gotten him into with Dominic and explain what had occurred during the events of that day. When I came into his office and told him I wanted to apologize and explain what happened, he said, "we are going to be talking about this later." I saw on his computer screen that he was writing a letter addressed to me. Later in the day I was called into Roy's office and Lloyd, Roy, and I sat down where I was issued a formal, written letter of reprimand.

I objected immediately to this letter. I also did not want to sign it but I was told I have no choice. I was also told that I was going to be on probation for the next 6 months and not to worry about anything because, "it could have been worse. Dominic was saying we should cut your pay or your bonus because of this so just keep your nose clean for a few months and this will go away."

It was then that I made very clear that I felt this was a blatant case of harassment and asked if I should get a lawyer or get human resources involved because I was being done wrong and because that letter was not exactly true. Then both Roy and Lloyd began backtracking and kept reassuring me that it was only probation and to relax because it could have been worse. It was very clear to me at this point that Dominic was pulling the strings as neither of them was very willing to listen to what really happened. Disgusted, insulted, and feeling like I was left to hang, I signed the letter against my will and walked out.

Being a man who writes, I began to channel my anger and bad emotions into the word. Typing relieved my stress. At first I began writing a narrative of the events which was intended to be a response to the letter of reprimand. Twelve pages into it I let Lloyd read what I had come up with. He agreed with everything that I had written to that point and stated it was accurate and that he wished he possessed my ability to write. As I continued to type, I began to have a moral dilemma within myself that caused me to change my course of action. I scrapped the entire thing and began anew with a completely different angle.

Over the course of the next couple weeks I did a tremendous amount of homework. I called lawyers and district attorneys and studied the law in great detail. Focusing on my defense was about the only thing that kept me sane at the time and it is worthy to note that at no point did I ever let my own problems interfere with my ability to do my job. I also spoke with the police about a possible course of action in relation to harassment and how to stop it. I could have filed a police report and chose not to at the time because I felt that a matter like this could be settled with an apology and removal of the letter from my record and that it would be better settled if it were kept within the company.

The way I attacked the problem was to get into the books and point out all the ways that Dominic had violated the company policies in his course of action with me. I also used the Texas Law to point out all the ways he had violated the law. Turns out there are some pretty serious law violations that occurred that could easily land him in prison while exposing the company to a serious financial liability. In that letter, I told him what he did and how he did it and then made clear that I could forgive it all and let it go if I were given an honest apology and not hassled or harassed anymore.

As time went on and I got further and further into this letter, I began discussing the details of it with some of my other co-workers. I told them the story of what happened to me and then began a discussion of the law. Most people couldn't believe that there were such laws on the books and that lead to people reading bits and pieces of the letter here and there. I was not at all shy about telling my story. During this time, I also had several conversations with Lloyd where I was very frank about the things I was going through at the time and the incredible difficulties I was having. It was during one of these conversations that the letter I was writing was brought up. Lloyd said to me, "Dominic has heard about this letter you are typing and is asking me questions about what is in it."

"Well, it's not what you think it is. What you read I scrapped and started over and I am coming up with some really good stuff to defend myself with." "Well, I'm going to tell you this, if you do anything with that letter, if you say anything, you are going to get fired and my hands will be tied and I will not do a thing to help you."

I asked, "so you are telling me that even though I feel that letter is very wrong and that I have been harassed something fierce, knowing what I am going through, even through all of that, if I still feel that Dominic harassed me I am not allowed to say a thing to defend myself or I am going to get fired?" To which he said, "I'm telling you that if you say a thing to him or about him you are going to get fired and I am not going to do a thing to help you."

That statement bothered me beyond description and further upped my feelings that I was being unfairly harassed. I also began thinking at this point that I was being set up to fail. I had already put the finishing touches on the letter and had it in my possession for a couple days when this turn of events came about. At the same time, severe worry and panic began to overtake me. I just could not let it go no matter what I tried to do. The people I had asked for help and was supposed to be able to get help from, namely Lloyd and Roy, had turned their back on me and were letting me fall and I was near a bottom. It was at this point, fearing retaliation, that I contacted human resources.

PSEG has a means for dispute resolution that is supposed to be third party and can help in matters such as this. Fearing the impotence of leadership that Lloyd and Roy clearly demonstrated, I chose to get them out of the equation and seek help elsewhere. I simply could not take any more double stories and mixed messages coming from management, Lloyd in particular. That afternoon, after talking to Lloyd and having the above conversation, I reached out with an email Employee Solutions and asked for help with my situation.

The next morning I received an email response from Robert Perez with Employee Relations HR Services. Later that morning we talked on the telephone. I told him I was leery about talking to him and that he would understand my dilemma much more clearly when he realized who it was I was talking about. He asked me if I would write down what happened and send it to him and that is when I told him I have already done pretty much just that. The problem, as I told him, was that the thing I had written was for a specific person and for a specific purpose and that he should not take the words as serious as they may come across as but reading what I had written would at least tell him the bones of the story and give him an idea of where to begin asking questions. I then sent him the letter via email.

(Note: I have not yet mentioned Ila Tatum, the plant's human resources representative. She played a significant role in what happened to me over the entire course of this affair. I was told early on that she was contacted and provided guidance while helping to write the letter of reprimand. It is her involvement in this matter that made me so leery of talking to human resources folks.)

I tried calling him later in the afternoon as he had asked me to do and got no answer. I then

received an email from Mr. Perez stating that he would contact me the following day. The next morning he did indeed call me. He told me that after reading the letter that Employee Relations made the determination that they needed to do an investigation and that they were going to go through with that course of action. In the meantime he told me, they wanted to take me off shift starting at the end of that work day and lasting for the course of the investigation and that I needed to stay away from the plant the entire time this happened.

I begged and pleaded with him not to do that to me. It was spring break and most of the operators were on vacation. Taking me off shift meant someone was going to have to come back from time off and I did not want to be the reason, not under any circumstances, that someone was called off vacation with their family. I would simply never live that one down. I also knew how bad of shape I was in at the time and told him about it and expressed very real concern that taking me off shift would be the worst thing for me and would have very bad consequences to my mental well-being. Additionally, I added that I had already made the biggest step by contacting him and that now I was completely protected so with Dominic scheduled to come into town I would have nothing to worry about. As I told him, I was perfectly capable at that point of acting like a grown up and being in the same room with him would not pose a problem. He insisted that I was to be taken off shift and be away from the plant for the duration of the investigation.

Before I left the plant, I went to talk to Lloyd. I told him that I had contacted human resources and why and then I told him that they wanted to take me off shift and I expressed all of the same concerns to him then. He said he would make a phone call to Robert. Later I came back to him and he told me that he tried as hard as he could and told Employee Relations that he had every confidence I would not pose any risks or problems yet they insisted I be taken off shift and sent home. I was assured that I would be paid and that no vacation use would accrue or anything like that. I still expressed severe concern about being sent home, yet I went against my will. I was a complete wreck over being sent home like that but resigned to my fate. Before I left, I noticed that Lloyd was very down over the news that I had gone to Employee Solutions. I asked him if he felt that I did the right thing and he said no. I told him that I had asked him for help many times and he had done nothing and then asked him, considering the stress I was under and knowing how I felt and such, what he would have preferred I had done instead. He said, "I wish you would have taken him in the back room and had a talk with him and settled it like that."

The next few weeks between March 18th and late April I lost track of time and some of the dates may not be exact.

A couple days into the investigation I got a phone call from Lloyd and he asked me to come to the plant and bring my key fob for the front gate of the plant. I was apoplectic at best. I discussed how insulting it was to me that I was asked to stay away from the plant and now I was being asked to come back to the plant to give my key fob over? And even worse, I was being asked to give it to the gate guard and was not even allowed on the site. Lloyd related to me that it is much worse than I can even imagine because Ila Tatum had said that they wanted to change the security locks and everything to keep me away. I pointed out how degrading such a notion was...as if those giant holes in the fence or the eighty year old gate guard would be in my way

had I really wanted to hurt someone. I then pointed out that while yes, I nearly did beat the tar out of Dominic that day back in February, I was trying everything I could think of to get help so I wouldn't do such a thing. I was begging for help to keep him away so I would not be put in such a miserable position ever again. Either way, I did as I was asked. I had to suffer the humiliation of going up to the gate where everyone could see me on camera in the control room. I had to suffer the humiliation of not being allowed on site and knew damn well that everyone I worked with knew. The fear of rumor mills also began to take hold rather strongly. My treatment at the hands of the company was killing me.

So a week or so passed and I received a phone call asking me to come to New Jersey and meet with Robert Perez. I went. When I arrived at corporate headquarters I was taken into the security area by Robert Perez where I interacted with the security guards. Later I bought him a cup of coffee across the street at a café and he was able to see me interact with more strangers. When we were finished, he escorted me outside the building. The last thing I said to him before I walked away was, "Robert, under all of this, please remember there is a real man, a human, a person, there and I am having a very hard time. Just please never lose sight of that." And I went to the bus station. When I left, there was absolutely zero reason in the entire world he could have felt I was anything other than a very decent and genuine man of exceptional caliber who posed no risk to anyone.

While I was in New Jersey, I didn't just meet with Robert Perez. There was also another man there whose name alludes me but I believe it was Steve. I think he was a company lawyer and I told him I didn't care if he stayed and listened to what I had to say because I kept no secrets. At this point I felt that the company would eventually do right and I could just get back to being a lowly, peon operator at the local power utility.

And the questions began.

I could tell almost immediately that they were not going to give me a fair shake based upon the questions they were asking. They were too concentrated on the few harsh things I said in the letter and not at all concerned with the reason I wrote it in the first place. I have said many times that I felt like everyone seemed to forget that I was the victim in all of this. That I was the one that was harassed and put in a bad position. I have felt since that day that everyone seems to have forgotten that I never did anything with that letter. In fact, I still have it in my possession. I wrote it, sure. But I reached out for help before I ever acted and to this day I have never received a single ounce of credit for having the courage to search out help.

Simply put, those two were only concerned with what I MIGHT do; not with what had happened to me.

I explained everything to them and told the entire story up to that point. I told them all the reasons that the letter of reprimand was false and should not be in my record. I was very concerned with getting anyone else in trouble for things they may have done and made clear that this was about me and what happened to me. At one point they asked me what it was that I

wanted to make this go away. I told them that the only thing I ever wanted, and in fact needed, was an apology and to have that letter of reprimand removed from my record because I needed some sort of assurance that I was not going to be fired for the next stupid little thing that may have happened.

Another thing they seemed to concentrate heavily on was my record. I knew that Lloyd kept a daily record of each operators performance. I had also kept in contact with him the entire time I was off shift so there were lots of phone calls during this time. When I told him I was being asked to go to New Jersey, I asked him if I could have a copy of my personell file to take with me. He told me he no longer had it and that my file had been requested up in New Jersey and that is where it was. I then asked if I could have a copy of the daily file to take along in case something comes up. He told me I would get one and that he would e-mail it to me. He never did.

In New Jersey I was asked if I had a copy of my file. I did not. I was asked why I wanted it and what I thought was in it. I pointed out that I did not go to New Jersey to be wasting anyone's time and that I arrived very well prepared. I had brought books and procedures along to support everything I said to them and wanted to bring my files in case there were any questions and as further proof of my sincerity. As to what was in those files, I said I honestly didn't have a clue. I never before had a reason to look, or even to care for that matter, what was in them. As far as I knew, the only thing that should have been there was a very long track record of stellar performances and great evaluations. That, and maybe my contract from when I was initially hired. They also were very curious as to why I would ask for a copy of Lloyd's daily file. The reason was the same - I wanted to be fully prepared to state my case and defend myself when I arrived. That was it.

That marked the second of well over a dozen times I asked for my files. I have asked the two men in New Jersey, Roy, Lloyd, and Ila over a dozen times total and despite being assured I would be given them, I still have not been allowed access to them. Not once. In fact, I was told on more than one occasion that I will absolutely NOT be allowed to see them. I honestly have no clue what those files contain. Before February 7th I had never been written up or anything like that and received nothing but stellar evaluations, so to the best of my knowledge, that is all that should be there. I don't know.

One other thing they were very curious about was the truthfulness of the letter I had written. I admitted to them that the only thing in the entire 34 pages that was not true was that there was not a police report on file and I told them why I chose not to file a police report in the end.

After arriving back home with the promise I would be contacted soon, I sat at home for over a week going out of my mind. The progression downhill was drastic and can be confirmed by friends and family. At some point Ila called me and offered the company psychologist. I turned her down and said that I did not want to talk to a shrink, particularly a company shrink. By this point I already felt very burned by the company and didn't trust a company shrink. I also still

trusted that the right thing would eventually be done and that I could get back to work and my normal, happy self when this was all finished up.

I then got a phone call from Ila Tatum. I was told that the investigation was still ongoing and that I still needed to remain away from the plant. I was then told that the company wanted me to undergo a psychological evaluation to determine my propensity for violence. I was a bit incredulous and surprised by such a request and I was made to believe that my future employment rested on my willingness to acquiesce to such a demand. I told Ila that I thought it was silly and while I very readily admit that I do indeed have the capacity for violence, I do not have a propensity towards such things and again reminded her that I asked for help to stop such things BEFORE they happened because I was not so sure that the next time I was cornered like I was I would be able to stop myself. I asked her why it is that I was being asked to undergo such an evaluation and she told me that some people I had interacted with felt I needed to be subjected to such foul treatment and she refused to elaborate further. She then asked me if I had any questions for her and I told her that I did. I still had the receipt from the hotel in New Jersey and I asked her if it was best that I just hold onto it until the investigation was over and things were back to normal. She said that they like to have those things cleared up as soon as possible and that I would have to get it to her right away and then instructed me to take it by the plant.

I said, "man! Just when I get to thinking I can't be insulted any further you guys find some really stunning ways to top the last round. You just told me to stay away from the plant and then told me I have to undergo a psychological evaluation to determine my propensity for violence because I am such a huge risk and now you are asking me to just stop by the plant?"

"Yes, I will let them know you are coming and you can just give it to the gate guard and he will make sure Lloyd gets it."

"Ila, I have been a very good sport throughout all of this so far and I have done every last thing I have been asked up to this point but for the first time I think I am going to have to tell you no. I simply can't allow myself to be humiliated that far. If you want me to mail it or fax it or something I will, but that one is just too low and I can't play this time. What an insult!"

I never could bring myself to mailing it. That phone call lasted less than five minutes and it really beat me up.

Ila called me about the 1st of April and I had to see the psychologist on April the 8th. His name is Jarvis Wright and he can be reached at 325-944-8184. I felt the evaluation was an insult and meant to upset me. I told him so. I told him it was embarrassing and humiliating to have to be subjected to such a thing. By the two hour mark he was bored and checking his watch. At the four hour mark I asked if my evaluations from the military would help him and he said yes. At the five hour mark I was left alone to finish the test I was being administered while he went to his friend's office to shoot the breeze. At the five and a half hour mark I finished and we parted ways. He told me that I would receive a copy of all reports. I never did until I contacted Jarvis

myself to get them. It was a hassle but I eventually received a copy of the report through my own effort.

One thing I noted during the exam was that noone was telling the complete story. He asked me why I was there and I told him I honestly didn't know. I told him I felt very strongly that everyone seemed to have forgotten that I was the victim in all of this and that I felt like I was being painted as the villain in the story and that I was being set up to fail. I also told him I was upset that everyone seemed to have forgotten that I still have in my possession the letter I wrote and that I never did anything with it; I was strong enough to ask for help first. I even showed it to him. He then read me the reason he was told I was there and I was aghast. From his report...

"The employee, Jeffrey Neely, a Shift Control Operator at the Odessa, Texas PSEB (sic) plant, was seen eating in the control room, a policy violation. His supervisor brought this to his attention and subsequently wrote him up for violating policy. The employee reportedly became angry and wrote a lengthy communication in which he allegedly threatened the individual who initially reported the violation. The employer, PSEB (sic) required Employee Neely to undergo a fitness for Duty Examination."

When he read that, I was very adamant that that is NOT what happened. I also experienced the same sort of disbelief in New Jersey with Robert and the other guy. I was very clear about, and maintain to this day, that had Dominic walked into that room and said, "that's a violation, you're fired," I would not have had a problem with that at all. But that is NOT what happened. As you can clearly see by contrasting what I have already written with what he was told, the truth was already being severely distorted. I was beginning to do alright by the time I met Jarvis and had even been gaining some weight back but knowing that I was being lied on increased my anxieties and sent me spiraling back downwards nearly out of control. Again, my friends and family can all attest to the changes I went through.

After getting home from that, two weeks passed again without hearing a word from anyone about the investigation. Waiting it out took a significant toll on me. I don't remember for certain the date, but I am almost certain that it was Thursday the 23rd of April that I finally got a call from Robert Perez. During that conversation he told me that the investigation was complete and I would be getting a call soon from Lloyd telling me when to go back to work. He also told me that there were some things done very wrong and that the letter would be removed from my file and that Dominic, Lloyd, and Roy were all going to receive coaching on how to give discipline in the future.

During that conversation, I also was told that what happened, according to his findings, was that Dominic and I talked and then he and Lloyd had to go to a meeting and later, after that meeting, is when Lloyd came into the control room. I said very plainly that that is not what happened and there are witnesses to prove it. It wasn't five minutes after Dominic walked out that Lloyd walked in. He dismissed what I told him. He also declared that Lloyd did not cuss me out at all in the control room and I said that that too is not true and again, there were witnesses to prove it. He then told me that, according to his findings, it was Lloyd who felt the need to write me up

and that he asked Dominic for help and advice on the matter. That is not at all what I was told clear back on February 7th and I again pointed out another inconsistency. These things were all dismissed by Robert. "Let's just get you back on shift as soon as possible."

I then re-expressed to him my interest in having a sit-down with Dominic and his boss to clear my name and get an apology. (I first mentioned this in New Jersey.) He agreed that this was a fantastic idea and said that it would happen. I expressed to him my concerns about my fitness for duty and the fact that nothing I brought up was being solved. What about the coffee cup issue? I told him that I NEED an apology. I told him that what those guys did to me was against the law and violated God-knows-how-many training sessions we had already had to sit through about harassment and that I was concerned that coaching was simply not going to be enough. I also expressed concerns about the fact that those others were being allowed to lie and get away with it to my detriment and that I felt like I was being set up to fail. I asked him who he talked to during his investigation. He told me he talked to Dominic, Lloyd, and Roy - noone else. I asked him if he talked to any of my co-workers and he said he didn't need to. I asked him if I could have a copy of my files (again) and if I could have copies of all the paperwork about the investigation or, at least a summary about it. He told me that was impossible and that I absolutely would not be allowed to see such things.

"You understand right, Jeff?"

"No, I really don't. Those things are about me and I should be allowed to see them."

"Well, you are not going to be allowed to see them."

Saturday, April 25th, I received a late evening phone call from Lloyd. We had the same conversation and I expressed stronger concern about my fitness for duty. I told him I was really struggling with what was happening to me. By this point I was growing worse by the day. I also mentioned the idea of the sitdown to him and he also agreed this was a great idea and that he would make sure it happened. "But let's just get you back on shift first and then see what happens."

We then discussed my concerns with the poor quality of the investigation which led to a lengthy discussion of the NCCR. He again stressed to me that the award money was coming and that as soon as it came in we were going to be provided cups to drink out of while on shift. I told him I was not at ease that anything would be settled but it sounded like I lost so I would be ready to go on shift the following Thursday night as requested. The next two nights I could not stop obsessing over the fact that I felt like I was being set up to fail. The torment in my head was unbearable and I simply could not let it go so Monday morning I called Lloyd back up and told him, "I know I said I would go back on shift but I am in really bad shape here and I'm afraid I simply can't go back on shift until I have that sit-down and get my name cleared. I can't focus and I need that apology first because I'm afraid I will be too concerned with keeping my job and not doing it and that is simply not safe. I'm simply not fit for duty. I need help here."

He replied, "Well, they aren't going to be happy with this at all."

I said, "well, I honestly couldn't care less about whether or not they are happy at this point because I have to worry about me this time and I need the help. I don't know what else to do but I can't get my head right."

It was not until late Tuesday evening that I got a phone call back from Lloyd. He read me the law and told me that I was to report Thursday night as scheduled no matter what or I would be fired. He said there would be no sit down and if I wanted to talk to Rick Machon, Dominic's boss, I could have his phone number and was free to call. He also said that Thursday night the first thing I was to do was report to Roy's office where I would be talked to.

Wednesday morning I placed a call to Rick Machon at 8:00 a.m. central time. I said, "Good morning, Mr. Machon. My name is Jeff Neely and I would imagine that you are already aware of why it is that I am calling you this morning?" "Yes, I read my summary I have here in front of me."

"Then you should be aware, sir, that I have gone through the investigation process and I am unhappy with the results and concerned with my fitness for duty. I asked to talk to you and have a sit down with you and Dominic because I heard you are a reasonable guy who will take the time to listen to me and I really need to have my name cleared before I can go back on shift."

"Well, I read my summary and it says that no harassment occurred so that's that. You'll go back on shift and you'll be treated like everyone else."

"But, sir..."

"But, sir nothing. Like I said, I read my summary and no harassment occurred. This is not a negotiation. I am not negotiating with you. You'll go back on shift and be treated like every body else and that's final."

"Sir, I have done every single thing I have been asked to do and I really feel I am being treated unfairly and I'm asking you for help. Are you telling me that after all that I have gone through up to this point you can't grant me just one hour of your time so I can clear my name and get back to work?"

"I told you, this is not a negotiation. I am not in a position to negotiate. The summary says no harassment occurred so there was no harassment. What do you want?"

"What I want, sir, is a sitdown with you and Dominic. I'm really concerned about my fitness for duty and I don't feel I can function properly until I get an apology and have a chance to clear my name. I'm being set up to fail here and everywhere I ask for help isn't working."

"If you want to talk, the next time I am in town I will talk with you but you absolutely are NOT going to get a chance to sit down with Dominic. I told you, this is not a negotiation. I'm not in a position to negotiate. So, you'll go back on shift and you'll be treated like every one else."

"Sir, I really feel like I'm being told to get fucked here."

"You're being told no harassment occurred and you'll go back on shift and you'll get treated like everybody else. You got a problem with that?"

"No, sir. I think I can see clearly how it is."

"Good day then." Click... The conversation didn't last five minutes.

Thursday night I barfed on the way to work. I was a nervous wreck when I arrived at the plant but I did as I was told and went straight to Roy's office. There I had to sit down with Roy, Lloyd, and Ila who had flown in from New Jersey just for that. I was again read the law.

That night, Lloyd read, word for word, from a sheet of paper and I was told the new conditions I was to operate under. Everyone had a copy of that sheet of paper except for myself. I later asked Lloyd for a copy of that sheet and he told me he didn't have one. According to him, Ila typed that sheet and gave it to him to read and that if I wanted a copy I would have to get it from her. The following e-mail exchange took place in regards to that...

From: Neely, Jeffrey
Sent: Friday, May 01, 2009 12:20 PM
To: Tatum, Ila W
Subject:

Ila,

The other night we sat down and I was read to from a sheet. I would like a copy of what I was read. Could you please send me an e-mail with that sheet of paper included in it?
Thanks.

From: Tatum, Ila W
Sent: Friday, May 01, 2009 12:42 PM
To: Neely, Jeffrey
Cc: Fleischer, Steven
Subject: RE:

I am unable to provide that as requested. They were only Lloyd's talking points.

From: Neely, Jeffrey
Sent: Friday, May 01, 2009 2:15 PM

To: Tatum, Ila W
Subject: RE:

They were read directly and that is what I am going to be held to. I would like a copy for my own records. Please provide what I asked for.

From: Tatum, Ila W
Sent: Friday, May 01, 2009 1:19 PM
To: Neely, Jeffrey
Cc: Hughes, Lloyd
Subject: RE:

I can't give you what I don't have. If you are unclear on the expectations, I would recommend that you meet again with Lloyd.

From: Neely, Jeffrey
Sent: Friday, May 01, 2009 1:33 PM
To: Tatum, Ila W
Subject: RE:

Then how about this...
Please regenerate these talking points and give them to me in writing so I am clear on the expectations set forth. That includes everything that was discussed in person Thursday night.

Examples...
I am not allowed to retaliate.
I am not to discuss a single thing that has happened to me with a single co-worker or both of us risk adverse reactions.
I am not allowed to speak of how it is Dominic Dibari harassed and discriminated against me.
I am not to ever disagree with any shift supervisor. Act first and ask questions later.
I am not allowed to cuss. Well, I am but not in certain circumstances. Or am I not?

Those things were written and I would like a copy of these things for myself so that I am perfectly clear on where I stand. Also, in case I have questions, I will be able to reference this first.

Now, please regenerate these talking points and send me a copy.
Thanks.

I never received what I asked for.

First I was told that the investigation was finished and under no circumstances was I allowed to retaliate. Retaliation, I was told, would not be tolerated and any form of retaliation I undertook would result in my immediate dismissal. Next I was told that I was to keep every aspect of the investigation confidential and that if I spoke of it or mentioned it to anyone, both myself and the person I talked to would be subject to disciplinary action. I felt the need for clarification at this point and asked the question, "So let me make sure I have this correct...Even though I still feel very strongly that I was harassed by Dominic I am not allowed to mention it at all or I will be fired?"

Ila said, "that is absolutely correct."

I then said, "what if I were to, say, go out on the street and hold up a sign that said "Dominic Dibari harasses people and PSEG endorses it"? Would I get fired for that?"

Ila then got an evil grin and replied, "Well, I'd have to talk to a lawyer about that."

The next thing I was told is that I am never again to disagree with a shift supervisor. If the shift supervisor says to do something I am to do it immediately and, should I have questions, I can go back later and look in the procedure to see if I was correct. Finally, I was told that I am never allowed to cuss again. Roy felt the need to elaborate. "Shop talk is ok like when you are talking to us, but when managers are around you are not allowed to cuss."

"Well, I need you to define shop talk. You have known me for a long time and know I can't help it either. What are the parameters? What is ok and what is not? If I am to be held to such strict lines, I need to know clearly where they are."

"You know shop talk when you hear it."

I was also told that I was under no circumstances to have a drink on the control room desk or I would be fired. So much for the statement about getting special cups. I protested further and let it drop. I didn't have the strength to carry on. I knew I was being set up to fail and what I had just been told verified that. It was then mentioned that I have concerns with my fitness for duty and I was asked if I was fit for duty. I said I was not but that I felt like I didn't have a choice but to go back on shift so I would find a way to make do. I was very concerned about the fact I would be more concerned with keeping my job over doing it and that that alone made me unfit for duty. Nobody cared.

The last thing said was said by me. I told them I would like to make a statement. It went like this...

"You guys know what I have been going through. You know how bad of shape I am in and I lost. Not much I can do about that at this point. But I want you all to know that even though I feel all of you fucked me over really bad, I don't hold nothing against you. Lloyd, you are the worst. You could have saved me a mountain of trouble by being honest but you just didn't have

the courage to do the right thing and you really fucked me. You couldn't even be honest about cussing me out and that has caused me nothing but trouble. But I forgive you. It's over. And Ila, I understand what a difficult position you are in because you were a significant part of this from day one and you know you can get in a lot of trouble for your involvement in this issue and on the other hand, you still have to deal with me like a person. I ain't going to hold nothing against you either. And Roy, you let me down too. I have asked all of you for help and you have set me up to fail but it happens. I just wanted you all to know that."

They said nothing.

That evening I felt like everyone was walking on eggshells around me. I found out later that Lloyd had called the night's shift supervisor into his office after I left and told him to go around and tell everyone not to talk to me about anything I had been through for the last month or else they would be fired and that if there was talk by me, they were to immediately report that back to him. This decree had a chilling effect and served to isolate me and subject me to increased scrutiny. For someone afraid he was being set up to fail, this did not sit well with me.

That night I shut down the plant without incident. And then the startup in the morning happened and one of my co-workers, Jaime Padilla, made an incredibly stupid mistake that nearly tripped one of the generators. That was probably the nail in the coffin for me. I froze for the first time ever. I simply couldn't think of what I needed to do. I was blank and the only thing in my head was, "of all the fucking nights in the world, Jaime! Fuck FUCK FUCK!" Had we tripped that turbine that night, I am certain I would have been fired for sure. Jaime Padilla or Pedro Hernandez can verify this incident.

The very next morning I filed a charge with the EEOC and asked for help.

From that point forward, I would not work inside. I was unable to concentrate and do my job and I was getting worse. I kept asking for help and felt I was running out of places to turn. I never heard a word about the near miss that first night back and that sunk me lower. The rest of the weekend I was a ghost and barely able to function at the plant. I was doing nothing more than the bare minimum to survive. Truthfully, I would not have gone back on shift at all except for the fact that my home life was completely wrecked at this point and if I didn't go back to placate my fiancé I was going to lose her. I was not safe and couldn't manage to do a thing about it.

To make matters worse, I found out the first night back that I was going to be switched to a different shift. I have never made it a secret that I only came to Texas when I got out of the service because of Pedro Hernandez. He and I were on the same boat together in the navy and he is my only friend. I have been friends with Pedro longer than I have known anyone else in my life and that man keeps me anchored. Everyone knew about the bond between Pedro and I and of all the times in the world to switch us to opposite shifts, this is the time they choose? When I am nearly ready to die, this is the time to do that? And to make it worse, I was being switched to a new shift supervisor, Kevin Todd, who has a volatile personality and is widely known to be in the center of every last problem at the plant.

Just prior to my being forced off shift in March, the plant was experiencing some severe problems with drum level controls that began coming out of nowhere. I was front and center in that issue and was very active in the troubleshooting of the problem. The first night it happened, I spent the entire night pulling up trends and writing up what we saw to help find the cause. The next morning at turnover, Kevin Todd came in and I was explaining what had happened to him. He then began to berate me and told me that everything I was doing was wrong. You can contact Pedro Hernandez to verify the accuracy of this story.

You see, Kevin was wrong about the plant and he was wrong in how he dealt with me and he felt so bad about it that he called Pedro later that day to apologize for his behavior. Then he called Lloyd and apologized to him as well. Turns out, his "monday morning quarterbacking" was causing problems and that poor behavior by him was on the radar. The problems that was causing were with everyone, including himself. But the funny thing is, he never once called me to apologize to me, the one who was trying his damndest to solve the problem, the one who was right about the machines, the one he actually shit on. Couple that issue with the new instructions I was placed under and it was but a short matter of time before I was going to have a fallout with him and I was going to be the one to get fired. It was finding out about the shift changes along with all of the other things combined that I began to have severe, uncontrollable panic attacks.

Saturday, May 9th, I was working overtime at the plant to support an outage for maintenance. That day I was having terrible difficulties doing my job. I was completely unable to concentrate and the one thing that stands out the most from that day and that I found the most troublesome was that I went out in the plant to hang a danger tag on a breaker for the low pressure recirculation pump. This function of my job was normal and routine and something I generally did without thought. I first went to the PEC building to hang the tag. I swore up and down and was certain I was in the right place. I looked everywhere and could not find the breaker. Finally, I slowed down and thought to myself that I must be in the wrong building. Silly me. Then I went to the LCI cabinet where I knew the breaker to be. Again, I searched through everything convinced I was in the correct place. Frustrated because I couldn't find the breaker, I began to panic before I realized I was again in the wrong place. I finally found the breaker in the third building I went to.

Under normal circumstances, I would have went straight to the correct location but the fact that I went to the wrong place twice, completely convinced I was in the right place each time, bothered me tremendously. If I couldn't get a simple breaker correct, what would happen when something real and serious came about? Later that afternoon, I let my guard down with Charlie Pando, the shift supervisor for the day. I told him many of the things I was going through and asked him to keep it to himself because the last thing I needed in the world at that point was more problems or trouble.

I went home for the day shortly after that. I was scheduled to work the next day but was not needed and asked to be allowed not to come in unless something came up where I was needed. My next scheduled day of work after that was Monday for the day shift. Of course, although much to my own chagrin, Charlie did the correct thing and went straight to management after I

left. I walked in the door to my house and my phone rang immediately. Roy Sanchez called and told me I needed to come back out to the plant to talk with him. When I returned to the plant, I was taken into his office and he, Lloyd and I sat down.

The conversation mentioned that I had expressed concerns about my mental functioning to Charlie and Roy began asking me if I was fit for duty. I again told him that I had been saying I was not for a considerable period of time and that I had been asking for help. I told him that I could do the outside job and would continue to with the knowledge that I was not well and just had to slow down and make sure I got everything correct. I told him that I was having an extremely hard time with what was happening to me and that sooner or later I would get my head right and then asked that I just be allowed to work through it. He made the strong suggestion that I come off shift again and I begged him not to do that to me because I knew I would really be very strongly affected by that in a negative direction.

When the conversation was over, I pulled Roy aside and told him that I had the strong belief that he had no clue what had really happened to me and that I felt knowing what I had been through would help him to help me. He agreed stating that to that point he was basically in the dark and that he did want to have that conversation but not at the plant. I offered to come in the next day if he wanted but that never came to fruition and the plan was to talk on Monday while I was on shift or possibly after work for the day.

Monday, May 11th began the first day of the new shift lineups. That morning I was taking my logs and walked between the #4 turbine and the administration building where I noticed that a thermometer was twisted up. I played with it a minute trying to fix it and then decided to write a work order in the control room after I had finished my rounds and I proceeded with the logs. A few minutes later I was near the condensate pumps when Lloyd came walking over to me. I found this odd because he never comes out into the plant to walk around unless he absolutely has to.

"Hey, Jeff. I saw you messing around with that thermometer over there. Is there something wrong?"

"No. It's just twisted around and I'll write a work order on it."

"Well, how are you doing?"

"I told you, I'm not doing well. Not at all. And I don't know what to do or how to stop it."

"Well, I'm concerned about you..."

"No, Lloyd. You are not at all concerned about me. How many times have I asked you for help? How many terrible things have you done? You could have saved me a mountain of trouble if you were honest but you couldn't even tell the truth about the things you did and you let me hang and now you want to come out here and act like you are concerned? The only reason you are

showing any interest at all now is because Roy knows about my problems and you are trying again to cover your ass. That's the only reason. So you really aren't helping me at all."

"Jeff, I'm trying to help you."

"Then please help me by staying away from me until I get my head together. Just being here right now you are making me worse and you are not helping. I've asked you for help god-knows-how-many times now and you haven't done a single thing so please, just leave me alone."

Then, out of nowhere, he said, "I am NOT going to change that fucking coffee cup rule!" That was it for me. That was all I could take and provoking me was really spinning me into a bad place. So I swallowed it down and said to him, "Look. You are not helping me at all so please, go the fuck away and leave me alone. Now."

"But, Jeff, I'm trying to help."

"Lloyd, you need to please, now, get the fuck away from me and leave me alone."

He then got one of the vilest grins I had ever seen in my life, one of those "gotcha, fucker!" grins, and turned and walked away. I was in a complete rage after that and had to go and walk around the ponds at the plant for about thirty minutes or so to calm myself back down; chain smoking the entire time. I needed a lot of things at that point and being provoked into a fight was not one of them. The feeling I had at that moment was not at all unlike the feeling I experienced when Dominic came back into the control room in the late afternoon back in February.

About an hour after Lloyd walked away from me I had my emotions back in check when I was called into Roy's office. Roy, Lloyd, Pedro and myself had a sitdown and Roy began by telling me that I was disrespectful to the operations manager and that he could not handle that behavior at the plant. I didn't even try to defend myself because I honestly didn't have the strength to fight it at that point. I knew Lloyd was not being truthful about what had happened between us but I just didn't have it in me anymore at that point. I was told that I was going to be suspended from shift for the rest of the day because of that. I begged them not to do that to me.

Then came more talk about whether or not I was fit for duty. I was near fits at this point and again said that I was not, not even close. I again reiterated that I had asked time and time again for help and didn't have an answer. I told them, "am I fit for duty? No. Can I do the job? Yes, but very slowly and carefully and eventually I'll be able to get myself through all of this. I don't have a better answer for you than that. I wish I did. Sweet Jesus do I wish I did, but I don't know what else to do or where else to go at this point."

I was then told that it didn't matter. For the disrespectful treatment of Lloyd that morning I was going to be suspended from shift for the rest of the day and was to leave at once. I was also told that I was to get a psychological evaluation to determine my fitness for duty and be back Friday morning for shift as scheduled.

I got home that morning and fell to the floor in a heap of sobbing, wailing tears. After a while, I got my head together enough to look in the phone book and call around town to some psychiatrists looking for help. The answer was the same across the board. "The earliest we can help you is late July or early August but you sound like you really need help now. Is that true? ... Yes? ... then try Desert Springs at (the phone number)."

I did as I was told and called them up. They immediately said that I should come in and asked if I could drive. It took an enormous amount of effort to get myself there. Once there, I talked to the admissions lady for about twenty minutes or so and she made quite clear I was going to be admitted regardless but allowed me the choice as to whether or not I wanted to be admitted. Monday afternoon I was admitted to BCA hospital, an acute care psychiatric facility because I was suffering a nervous breakdown. Later, some of the nurses told me that the first couple nights there I was nothing but a ghost. They said that my eyes looked like I had just killed people because there was just nothing there at all. No flash of life behind them, nothing.

The first thing they wanted to do was get me some sleep. I had admitted that I had barely ten nights sleep (mostly brought on by sheer exhaustion to the point of finally just passing out) total since February 5th and the doctor, Paul Herndon, told me that most of the time just getting some sleep makes a big difference. The drug I was administered was an anti-schizophrenia drug and Monday night it barely worked. Tuesday night proved to be a very bad night for me because I had some very bad reactions to the drug I was on. As soon as the drug finally passed from my system and I began to get a clearer head, I called Roy to inform him where I was. I am almost certain that I called him on Thursday morning, he says it was Friday morning. I suppose it would be easy to find out exactly when it was I called him but it matters not. The fact is that I did call him the morning I was to be back on shift at the plant. I remember the conversation nearly word for word.

"Roy, I've been in the hospital since Monday afternoon and will be here for the foreseeable future. If you would like to verify this, you can contact Alicia Lovelady (and provided her number) and she will answer any questions you have. I don't know how long I'll be here but I do still want to have that conversation we were going to have."

"That's all I needed to know. Thanks." Click...

I did try to call Roy many more times while I was in the hospital and was never able to get a hold of him. I found out later that he was in New Jersey that week. The reason I was trying to get in contact with him is because I felt it would be helpful to have that conversation with Roy as soon as possible. I had asked the people at the hospital if I could find a way to work with them to allow Roy, if he would come out there, to visit around the visitation hours and they agreed to help make that possible as they felt it would be a good idea as well.

The details of the hospital stay are not that important. What is important about the stay is that I worked my ass off in there and was unlike most any other patient you will ever find in a place like that. I went in with the correct attitude and wanted nothing more than to get myself healthy

and get the hell out of there. While the doctors wanted to keep me at least one more day than they did, I was discharged in the late afternoon of Wednesday, May 20th.

That day I came out in a pretty upbeat mood. I was feeling good. I had an appetite again and was eating. I had gotten some sleep. I did a lot of homework and had a much better understanding of what was wrong with me. I felt ready.

The first place I went was to stop by Pedro's house and let him know that I was still alive. He saw the way I left and the hospitalization was rather sudden so I figured he may be a bit worried. I was correct. I then stopped by the pharmacy to pick up the prescriptions I was placed on and then I went home, happy and ready to enjoy a nice, quiet night with my fiance.

I had just walked in the door and after a long hug, she handed me a letter that had arrived that morning. It was a letter from PSEG informing me that my termination had been terminated for insubordination. It's fair to say I did NOT see that coming.

Reading that letter sent me into shock and put me right back down to the state I was in the day I went into the hospital. I honestly don't really remember the next two hours. I remember telling my fiance that she should go to bed and that I just needed to stay up and be left alone for a while. I remember being blank. No function whatsoever. I remember being out in the front yard bunches of times and barfing all over the place uncontrollably and then crying because I had finally gotten my appetite back and would maybe stop losing weight and here it was in front of me. Gruesome chunks of delicious hamburgers, my favorite meal. I remember looking at myself in the mirror the next morning and becoming revolted because there was chunks of that same horrific night's activity in my beard and I just HAD to cut it off to end the revulsion because I remembered cleaning it out several times during the night as well.

The next morning I was still awake on the couch when FedEx delivered two boxes.

The remnants of my personal belongings that were unceremoniously dumped in and shipped without care were delivered in two of the most careless looking boxes I had ever before seen in my life. I would have been embarrassed to have done to someone what they had now done to me.

Part 2 - How Does This Story Violate The Law?

First I am going to address the easy one. Those statements Roy made about a racial preference in hiring very much did happen and can easily be proven to have occurred. There is no argument there.

When cases of harassment occur and a discrimination proceeding is undertaken, the employee's manager has a legal obligation to protect the employee that complained of harassment from retaliation even if it was found that no harassment occurred. Roy Sanchez, the plant manager, had a legal duty to listen to and protect me after I came back from that investigation. He did nothing. Instead, he sat back and allowed me to spiral out of control and ultimately sent me to the loonie bin when it was very clear that something had gone dreadfully wrong.

It is my impression that, based upon his statements as to a racial preference and the fact that almost every person hired at the plant since he took over is of Latino origin, that he intentionally failed to perform his legal obligations as a supervisor of an employee following a discrimination proceeding based upon racial motives and it is my strong opinion that any reasonable person examining the facts of my case would agree.

Next I want to make mention of Dominic Dibari specifically. In one 24 hour stretch, Dominic managed to violate a ton of laws. For a detailed list of all the ways Dominic broke the law during his interactions with me, see appendix C. That is the meat of the letter I wrote and shared with Robert Perez. I also included a whole bunch other things to demonstrate that I am not the guy I was accused of being. That is irrelevant though because again, I asked for help before I did anything that would get me in trouble; I did the right thing and I still have that letter in my possession as of this writing.

And then there's the Americans with Disabilities Act...

When I first spoke with Cathy Blanco on the telephone she asked me what my disability was. At the time, I was only able to describe to her what I was going through. I told her that I guess my best way of describing it would be that I am too principled: I just simply could not let go of what had happened to me and that I was convinced I was being set up to fail and would at any time be fired. I also told her some of the problems I was encountering physically and mentally such as my severe lack of sleep and weight-loss along with difficulty concentrating and functioning mentally. I don't believe she took me serious.

When I came out of the hospital, I was given a note stating that I was under the care of a professional doctor and that it was recommended that I not return to work in any capacity until I was seen for a follow up appointment where a decision about returning to work would then be made.

Alicia Lovelady, LMSW - Director of Social Services, can be reached at 432-561-5915 to verify this.

While in the hospital, I was diagnosed with both Major Depressive Disorder - Severe Without Psychosis and Generalized Anxiety Disorder. Additionally, I was also told that I exhibit all the symptoms of fairly major Obsessive Compulsive Disorder as well as Post Traumatic Stress Disorder however I was in an acute care psychiatric facility and therefore would not be under observation long enough to make a proper diagnosis. My future therapy includes on it's agenda going into those two areas further to determine whether or not I truly have those last two disorders. Further, since losing my employment I have reached out to The Texas Veterans Commission for help and ideas on how to proceed with life going forward and the counselor I spoke to, Joe Rickey at the Odessa field office, (he told me he is a certified PTSD counselor) recognized the signs of PTSD within me not long after introducing myself to him and he suggested that I register with the VA about this.

I won't speak too much on OCD and PTSD because they were not "officially" diagnosed as of this writing. I will say that the signs are there and according to the doctors who treated me, given time these diagnoses are likely. That said...

In regards to Obsessive Compulsive Disorder:

I was told by Doctor Herndon (who can be found at the same number as Alicia Lovelady) that having OCD is not necessarily bad and that it is in fact that having the disorder is one of the traits that tends to make me successful. It shows up in ways such as rigid adherence to procedures and the strict need for integrity and honesty. The problems arise when OCD is coupled to panic disorders that a person like myself is tripped into a tailspin as I experienced. That helps explain why it is that I could not handle the idea of the NCCP rule among many other things. I had recognized these traits within myself long before and knew them to be both a boon and a bane. For proof of this, see the end of the letter in appendix C where I mentioned several times that very fact. Again, note that I had written that in February and was not hospitalized until May.

In regards to Post Traumatic Stress Disorder:

I now realize that I have had all the signs all along and never realized it until my world turned over. One of the major reasons I chose to get out of the military half way to retirement is that I had been serving sea time on a very active submarine for over 6 years and could no longer handle the stress. I chose to avoid lucrative nuclear work when I got out of the service because I simply could no longer handle the mentality of leadership in the service and those same type of personalities run rampant in the nuclear world of electrical generation. It's also the reason I was not interested in promotion; the same personality types are the very ones I would run in to higher up in the chain of management. Dominic Dibari is one of those horrible leaders you hear stories about and he is in a position to exploit and remove any and all that steps in his way. Asking in what capacity you served in the service and replying to the fact you were enlisted by placing his hands behind his head in a posing manner and declaring with smug satisfaction that, "I was a ship driver myself," to show he outranked you and make you understand where he thinks you stand doesn't work wonders to a man's PTSD. In fact, it really flared up the symptoms. Further,

leaning in close and threatening me with, "you DO understand the chain of command, DON'T YOU, Jeff?" doesn't work wonders for a man with such impairments to normal mental functioning as I have either. This would help explain the viscous level of rage I experienced when he returned to harass me and then threatened me.

One of the things I expressed many times to many people during the course of the investigation I took part in was that this whole thing was making me turn back into a person I was not proud of being - It was turning me back into the military mindset. I even made note of that in the letter found in appendix C. The anxiety disorder only reinforced what was in my head and made the symptoms worse.

Moreover, I have a documented history of medical problems going back into the service. Specifically, during my last year in the service I suffered severe gastrointestinal problems and went to many doctors looking for an answer. When I got out of the service and began to wind down, the problems with my intestinal track went away on their own. I have now been told that what I was going through at the time was the physical manifestations of undiagnosed stress and anxiety disorders. While I was in the service, the diarrhea was so bad at some points that I was unable to work at all.

I am scheduled for several appointments in the future and will likely have to undergo counseling and therapy for a considerable amount of time because of what has happened to me and the nervous breakdown I suffered. Also, I have been prescribed the drugs Zoloft and Trazadone and will likely need medication for the foreseeable future.

EEOC Enforcement Guidance on the Americans with Disabilities Act and Psychiatric Disabilities

1. What is a "mental impairment" under the ADA?

The ADA rule defines "mental impairment" to include "[a]ny mental or psychological disorder, such as . . . emotional or mental illness."⁶ Examples of "emotional or mental illness[es]" include major depression, bipolar disorder, anxiety disorders (which include panic disorder, obsessive compulsive disorder, and post-traumatic stress disorder), schizophrenia, and personality disorders. The current edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (now the fourth edition, DSM-IV) is relevant for identifying these disorders. The DSM-IV has been recognized as an important reference by courts⁷ and is widely used by American mental health professionals for diagnostic and insurance reimbursement purposes.

In regards to Major Depressive Disorder:

In the hospital I was diagnosed with this disorder and given the quantifier "severe without psychosis". That is explained on page 412 of the DSM as follows:

Severity is judged to be mild, moderate, or severe based on the number of criteria symptoms, the severity of the symptoms, and the degree of functional disability and distress. *Mild* episodes are characterized by the presence of only five or six depressive symptoms and either mild disability or the capacity to function normally but with substantial and unusual effort. Episodes that are *severe without psychotic features* are characterized by the presence of most of the criteria symptoms and clear-cut, observable disability (e.g., inability to work or care for children). *Moderate* episodes have a severity that is intermediate between mild and severe.

This was not my first major depressive episode. I experienced another one shortly after beginning my employment for PSEG. I was able to pick myself up and put my life together coming out of that one which served to scare me because this time around I couldn't make it go away. This time I could not pick myself up and just kept falling further and further out of control.

As for Generalized Anxiety Disorder and Major Depressive Disorder, they are hallmarked by difficulty sleeping and concentrating as well as clinically significant social and occupational difficulties. Having the diagnosis came about because I was in the middle of a severe breakdown and no one will question that I was significantly limited in one or more major life activities for many months before I was hospitalized and that my problems were greatly exacerbated by everything that happened to me from February 5th on.

This fact alone is enough to afford me protection under the ADA.

My problems were well-known by management and they knew, or should have known, that the actions perpetrated against me would cause me great distress. Therefore, it is my assertion that there was clear malicious intent underlying their motives in violation of the Americans with Disabilities Act.

Additionally, it is well known that I cuss a lot when I talk. It has been documented all the way back into the navy on every single evaluation I have ever received. On account of that, there exists a stereotype about me that I have always found very difficult to overcome. That perception of poor professionalism is a true barrier to advancement and based on other's attitude about me is a disability that I am regarded as having. It has cost me dearly here in this very example.

I can add more, but I believe the point has been made.

I also participated in a proceeding for discrimination/harassment within the company. Whether or not actual harassment was found to have occurred, I am protected from retaliation after the fact. That protection was not in place.

In the control room on February 5th I made very clear I was being subjected to activity I did not want to participate in. The second trip assures it was harassment and the letter on Saturday guarantees it was harassment. When I was handed that letter of reprimand on the 7th of February, I made very clear that I was being subjected to harassment and both Roy and Lloyd had a legal obligation at that moment to stop everything and report my concerns at once. They did not.

The law makes it quite clear that you cannot restrict a persons ability to reasonably object to discrimination/harassment as long as they have a good faith and reasonable belief that discrimination/harassment did actually occur. When Lloyd Hughes told me that if I say anything to or about Dominic Dibari concerning the fact he had me written up I would be fired, he violated my rights as guaranteed by the law. Further, when I returned to work and everyone was quietly told they could not speak to me about what I had been through, their rights were violated as well as my own. The enforcement guidance for the ADA makes it very clear that discussing such things is protected activity. After I was fired, Lloyd Hughes made the public pronouncement that none of my former co-workers were to talk to me under any circumstances. That too is a violation of the law as you cannot stop or try to stop the protected activity of opposing discrimination/harassment.

Proof of this can be inferred by reading the e-mail exchange between Ila Tatum and myself. The reason that she would not send me a copy of what she had written as my guidance is that doing so would admit that the law was violated.

And further yet, when Lloyd Hughes told all of my former co-workers that I was not to be spoken to about such things and that they are to report such conversations to him immediately, he subjected me to isolation and ridicule as well as increased scrutiny. That too is a violation of the law explicitly defined in the enforcement guidance.

The enforcement guidance for the ADA makes it exceptionally clear that in a case of discrimination/harassment where the parties need to be separated, it is the harassER who is to be removed and that absolutely no undue hardship is to be placed on the person being harassed. Robert Perez violated my rights when he forced me off shift against my will. When I was later forced back on shift in spite of very real concerns about fitness for duty, the hardships I underwent were beyond description and again, my explicitly defined rights per the enforcement guidance were violated.

I was asked to undergo two psychological evaluations. One of them was illegal and one of them was not. The fair one was the one that ended up with my hospitalization. That morning Roy ordered me to get a fit for duty evaluation and be back to work Friday morning. I was clearly not well and it was within his rights to demand such a thing of me.

The first one, however, was a violation of my rights. I was told I had to go through an evaluation to "determine my propensity for violence". As I quoted before, the doctor was told I had threatened people and questioned my propensity for violence. As I have stated, no one will try to deny the fact that I was a model employee until the day I was taken off shift. My ability to do my

job was not in question. I had given zero reason to doubt my ability to do my job at that point outside of my own concerns.

8b. List any **witnesses** who would testify for plaintiff to support plaintiff's allegations and the substance of their testimony:

- Paul Townsend: Co-worker of Plaintiff at PSEG. Witness to matters relevant to this lawsuit; including but not limited to PSEG's corporate policies, racist statements made by plant manager, Roy Sanchez. Plaintiff's emotional and mental states, and PSEG's retaliatory actions.
- Pedro Hernandez: Shift supervisor at PSEG. Witness to matters relevant to this lawsuit; including but not limited to PSEG's corporate policies, Plaintiff's emotional and mental states, and PSEG's retaliatory actions.
- Jaime Padilla: Co-worker of Plaintiff at PSEG. Witness to matters relevant to this lawsuit; including but not limited to PSEG's corporate policies, Plaintiff's emotional and mental states, and PSEG's retaliatory actions.
- Mike Willadsen: Shift supervisor at PSEG. Witness to matters relevant to this lawsuit; including but not limited to PSEG's corporate policies, interactions between Plaintiff and Dominic Dibari on February 5, 2009, Plaintiff's emotional and mental states, and PSEG's retaliatory actions.
- Kevin Todd: Shift supervisor at PSEG. Witness to matters relevant to this lawsuit; including but not limited to PSEG's corporate policies, Plaintiff's emotional and mental states, and PSEG's retaliatory actions.
- Carlos Pando: Shift supervisor at PSEG. Witness to matters relevant to this lawsuit; including but not limited to PSEG's corporate policies, Plaintiff's emotional and mental states, and PSEG's retaliatory actions.
- Mike Gallaher: PSEG plant safety manager. Witness to matters relevant to this lawsuit; including but not limited to PSEG's corporate policies, Plaintiff's emotional and mental states, and PSEG's retaliatory actions.
- Jarvis Wright: Psychologist. Performed psychological evaluation on Plaintiff.
- Kenny Stewart: Plaintiff's coworker at PSEG. Witness to matters relevant to this lawsuit; including but not limited to PSEG's corporate policies, Plaintiff's emotional and mental states, Plaintiff's interactions with Dominic Dibari, and PSEG's retaliatory actions.
- Robert Perez: Plaintiff's contact with PSEG's Employee Relations/HR Services. Witness to Plaintiff's report of discrimination and ensuing investigation.

Carlos Gutierrez: Coworker of Plaintiff at PSEG. Witness to matters relevant to this lawsuit; including but not limited to PSEG's corporate policies, Plaintiff's emotional and mental states, and PSEG's retaliatory actions.

Clay Watts: Coworker of Plaintiff at PSEG. Witness to matters relevant to this lawsuit; including but not limited to PSEG's corporate policies, Plaintiff's emotional and mental states, and PSEG's retaliatory actions.

Mark Bowen: Coworker of Plaintiff at PSEG. Witness to matters relevant to this lawsuit; including but not limited to PSEG's corporate policies, Plaintiff's emotional and mental states, and PSEG's retaliatory actions.

Paul Mroz: Coworker of Plaintiff at PSEG. Witness to matters relevant to this lawsuit; including but not limited to PSEG's corporate policies, Plaintiff's emotional and mental states, and PSEG's retaliatory actions.

Lance Tullos: Coworker of Plaintiff at PSEG. Witness to matters relevant to this lawsuit; including but not limited to PSEG's corporate policies, Plaintiff's emotional and mental states, and PSEG's retaliatory actions.

Keith Bell: Coworker of Plaintiff at PSEG. Witness to matters relevant to this lawsuit; including but not limited to PSEG's corporate policies, Plaintiff's emotional and mental states, and PSEG's retaliatory actions.

Eddie Beason: Coworker of Plaintiff at PSEG. Witness to matters relevant to this lawsuit; including but not limited to PSEG's corporate policies, Plaintiff's emotional and mental states, and PSEG's retaliatory actions.

Jack Bond: Coworker of Plaintiff at PSEG. Witness to matters relevant to this lawsuit; including but not limited to PSEG's corporate policies, Plaintiff's emotional and mental states, and PSEG's retaliatory actions.

Billy Cleaver: Warehouse Supervisor at site. Witness to matters relevant to this lawsuit; including but not limited to PSEG's corporate policies, Plaintiff's emotional and mental states, and PSEG's retaliatory actions.

Priscilla House: Coworker of Plaintiff at PSEG. Witness to matters relevant to this lawsuit; including but not limited to PSEG's corporate policies, Plaintiff's apology for any past offense, Plaintiff's emotional and mental states, and PSEG's retaliatory actions.

Toby Kithchens: Friend of Plaintiff. Witness to deterioration of Plaintiff's emotional and mental states during the period of time relevant to this suit.

Don Woodward: Friend of Plaintiff. Witness to deterioration of Plaintiff's emotional and mental states during the period of time relevant to this suit.

Michelle Woodward: Friend of Plaintiff. Witness to deterioration of Plaintiff's emotional and mental states during the period of time relevant to this suit.

Marcy Sandberg: Plaintiff's fiancé. Witness to deterioration of Plaintiff's emotional and mental states during the period of time relevant to this suit.

8c. List any **documentation** that would support plaintiff's allegations and explain what the documents will prove:

Letter of Reprimand dated February 7, 2009. Proof of action taken by PSEG in response to Plaintiff's initial complaints.

Letter submitted to Robert Perez from Human Resources on March 17, 2009. Source of alleged threats by Plaintiff.

Fitness for Duty Evaluation dated April 8, 2009. Proof of limited scope of evaluation.

Letter of Termination dated May 18, 2009. Action taken by PSEG after Plaintiff's hospitalization.

Letter from Dr. P. Herndon, MD dated May 20, 2009. Proof of Plaintiff's hospitalization.

BCA Permian Basin discharge orders dated May 20, 2009. Proof of Plaintiff's medical impairments at time of termination.

Plaintiff's PSEG personnel file. Proof of Plaintiff's employment record, including but not limited evaluations and incident reports.

PSEG's "Standards of Integrity. Proof of PSEG policy in regards to Plaintiff's allegations.